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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/565,091	01/18/2006	Leif Stern	HW-8007	5471

26294 7590 03/09/2007  
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CLEVEVLAND, OH 44114

EXAMINER
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DUMAS, NKEISHA J

ART UNIT	PAPER NUMBER
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3632

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/09/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/565,091

Applicant(s)

STERN, LEIF

Examiner

Nkeisha J. Dumas, Esq.

Art Unit

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☒ Claim(s) 4-8 and 10 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 January 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 1/18/2006
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. The following correspondence is a non-final Office Action for application number 10/565,091 for a SCREEN FOR HOLDING REFUSE SACKS OPEN, filed on 1/18/2006. Claims 1-10 are pending.

#### *Drawings*

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: reference number 1d (Fig. 1). Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: reference numbers 1b (page 2) and 1c (pages 2 and 6). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to

avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "2" has been used to designate both an edge of the screen and an edge of the bag in Fig. 1. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

5. In addition to Replacement Sheets containing the corrected drawing figure(s), applicant is required to submit a marked-up copy of each Replacement Sheet including annotations indicating the changes made to the previous version. The marked-up copy must be clearly labeled as "Annotated Sheets" and must be presented in the

amendment or remarks section that explains the change(s) to the drawings. See 37 CFR 1.121(d)(1). Failure to timely submit the proposed drawing and marked-up copy will result in the abandonment of the application.

### ***Claim Objections***

6. Claims 4 and 5 recite the limitation "second end portions" in the second and third lines, respectively. There is insufficient antecedent basis for this limitation in the claims.

7. The term "substantially" in claim 6 is a relative term which renders the claim indefinite. The term "substantially" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Thus, it is unknown how much of a semicircular cross section the screen should have in order to fall within the ambit of this claim.

8. Claims 7 and 8 recite the limitation "two longitudinal edges" in the fifth and second lines, respectively. There is insufficient antecedent basis for this limitation in the claims.

9. The term "substantially" in claim 7 is a relative term which renders the claim indefinite. The term "substantially" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Thus, it is unknown how much of a planar shape the longitudinal edges should have in order to fall within the ambit of this claim.

10. The term "or similar material" in claim 10 is a relative term which renders the claim indefinite. The term "or similar material" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Thus, it is unclear what type of material the applicant regards as "similar" to fall within the ambit of this claim.

***Claim Rejections - 35 USC § 112***

11. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

12. Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 3 is rejected because applicant does not specifically disclose what is meant by the "holding-together member", the drawings do not disclose any details about the holding-together member, and further, that portion of the specification that discusses the holding-together member (page 3, line 32 - page 4, line 6) does not set forth any details on how the member is attached or secured to the screen (i.e., is the member hooked to the screen on both sides, what is a "snap in action"?).

***Claim Rejections - 35 USC § 102***

13. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

14. Claims 1-5 and 7-8 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Nelson (U.S. Pat. 4,955,496).

Regarding claim 1, Nelson teaches a screen (10) wherein the screen is shorter than a refuse sack such that open parts of the refuse sack can be folded into the screen (Fig. 1), the screen is designed to stretch the refuse sack (screen is selectively sized and can stretch sack depending on size of sack), and a locking device (52) is provided on the screen.

Regarding claim 2, Nelson teaches the screen of claim 1 wherein the screen consists of elastic material (polypropylene) and is compressible from a normal shape to a narrower shape (Figs. 1, 3, 11), the refuse sack can be threaded onto the screen or said screen be inserted into said refuse sack when said screen is compressed to a narrower shape, and the screen can be brought to spring out from its narrower shape to its normal shape and thereby stretch the refuse sack (col. 1, lines 20-25).

Regarding claim 3, Nelson teaches the screen of claim 2 wherein a holding together-member (52) is provided to hold the screen in its narrower shape.

Regarding claim 4, Nelson teaches the screen of claim 1 wherein second end portions (18) of the screen have at least one handle opening (26) into which parts of the refuse sack are insertable.

Regarding claim 5, Nelson teaches the screen of claim 1 wherein the locking device (52) comprises pins (member 52 serves to pin screen together) which extend

outwards (at bottom portion thereof as shown in Fig. 4) from second end portions of the screen and into which parts of the refuse sack can be pressed (sack can be pressed underneath pin as an alternate securing means).

Although claim 7 recites purely functional limitations, it is nonetheless rejected because Nelson teaches the screen of claim 1 that is capable of permitting a refuse sack to be provided thereon, on a support from which refuse shall be moved into the refuse sack, such that those parts of the refuse sack which extend between the two longitudinal edges (16, 18) of the screen and which thereby have a planar or substantially planar shape, can be situated close to and/or engage the support.

Although claim 8 recites functional limitations, it is nonetheless rejected because Nelson teaches the screen of claim 1 wherein the longitudinal edges (at bottom end of 22, 24) are capable of having being designed or include members for preventing damage of the refuse sack by the longitudinal edges (20).

Regarding claim 10, Nelson teaches the screen of claim 1 wherein the screen is thin-walled (col. 3, lines 67-68) and elastic and consists of polypropylene or similar material (col. 3, line 67—col. 4, line 1) and the refuse sack is a plastic bag (col. 1, lines 6-9) from which the screen can be removed and tied up after removal of the screen.

15. Claims 1, 6 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Monahan (U.S. Pat. 6,296,212).

Regarding claim 1, Monahan teaches a screen (10) wherein the screen is shorter than a refuse sack (col. 4, lines 1-4) such that open parts of the refuse sack can be



folded into the screen (depending on size of sack)/, the screen is designed to stretch the refuse sack (Fig. 1), and a locking device (22) is provided on the screen.

Regarding claim 6, Monahan teaches the screen of claim 1 wherein the screen in cross section has a semicircular or substantially semicircular shape (Fig. 1).

Although claim 9 recites purely functional limitations, it is nonetheless rejected because Monahan teaches the screen of claim 1 wherein a strip is capable of being hooked onto two longitudinal edges of the screen such that the strip extends across an opening between the edges at second end portions of the screen and open parts of the refuse sack can be folded within the strip.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nkeisha J. Dumas, Esq. whose telephone number is (571) 272-5781. The examiner can normally be reached on Monday - Friday, 8:30 a.m. - 5:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on (571) 272-6842. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

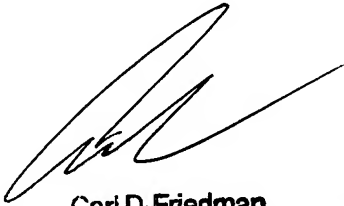
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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
njd

  
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Supervisory Patent Examiner  
Group 3600